



DFW

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

|   |                      |                        |                    |
|---|----------------------|------------------------|--------------------|
| <b>TRANSMITTAL FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number   | 10/821,383             |                    |
|   | Filing Date          | 04/09/2004             |                    |
|   | First Named Inventor | Christopher H. Porter  |                    |
|   | Art Unit             | 3763                   |                    |
|   | Examiner Name        | Aamer S. Ahmed         |                    |
| Total Number of Pages in This Submission  | 6                    | Attorney Docket Number | 203/505 US; MB-104 |

| ENCLOSURES (Check all that apply)   |   |   |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form                             | <input type="checkbox"/> Drawing(s)                                       | <input type="checkbox"/> After Allowance Communication to TC                            |
| <input type="checkbox"/> Fee Attached                                     | <input type="checkbox"/> Licensing-related Papers                         | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences     |
| <input checked="" type="checkbox"/> Amendment/Reply                       | <input type="checkbox"/> Petition   | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input checked="" type="checkbox"/> After Final                           | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                        | <input type="checkbox"/> Power of Attorney, Revocation                    | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                        | <input type="checkbox"/> Change of Correspondence Address                 | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):         |
| <input type="checkbox"/> Express Abandonment Request                      | <input type="checkbox"/> Terminal Disclaimer                              | Postcard  |
| <input type="checkbox"/> Information Disclosure Statement                 | <input type="checkbox"/> Request for Refund                               |   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)           | <input type="checkbox"/> CD, Number of CD(s) _____                        |   |
| <input type="checkbox"/> Reply to Missing Parts/Incomplete Application    | <input type="checkbox"/> Landscape Table on CD                            |   |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | Remarks   |   |

| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT |                             |          |        |
|--|-----------------------------|----------|--------|
| Firm Name                                  | Freilich, Hornbaker & Rosen |          |        |
| Signature                                  |                             |          |        |
| Printed name                               | Arthur Freilich             |          |        |
| Date                                       | 18 July 2006                | Reg. No. | 19,281 |

| CERTIFICATE OF TRANSMISSION/MAILING   |                 |      |              |
|---|-----------------|------|--------------|
| I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: |                 |      |              |
| Signature   |                 |      |              |
| Typed or printed name   | Arthur Freilich | Date | 18 July 2006 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:  
Christopher H. Porter

Examiner : Aamer S. Ahmed  
Art Unit: 3763

Applic.: 10/821,383

Filed: 04/09/2004

For: PERCUTANEOUSLY IMPLANTABLE  
MEDICAL DEVICE CONFIGURED TO  
PROMOTE TISSUE INGROWTH

Proposed Amendment After  
Final Rejection

Commissioner for Patents  
Alexandria, VA 22313-1450

REMARKS

In view of the Office Action dated 05/05/2006, Applicants' undersigned attorney requested a personal interview with Examiner Ahmed. The request was courteously granted and the interview was held on 06/06/2006. As indicated on the Interview Summary form, the discussion primarily involved independent claims 1 and 16 and the cited de Groot reference.

During the interview, Applicants' representative pointed out that claim 1 recited a medical device having both longitudinal and lateral porous layers for promoting tissue ingrowth. As explained in Applicants' specification, this configuration forms an infection resistant barrier, provides effective anchoring, and avoids marsupialization. Applicants claim 16 similarly recites a method of configuring a medical device to provide both longitudinally and laterally projecting porous layers.

In contrast, de Groot describes a percutaneous implant including only a laterally extending mesh sheet which functions to anchor the device. More particularly, the de Groot device is comprised of a subcutaneous part 1 and a percutaneous 10. The subcutaneous part 1 comprises a mesh sheet for promoting tissue ingrowth to anchor a holding member 3 used to mount the percutaneous part 10. De Groot does not suggest providing both longitudinally and laterally extending porous layers to form an infection resistant barrier and inhibit marsupialization.

Submitted herewith for filing is a Claim Listing showing proposed amendments to claims 1 and 16 which were discussed at the interview to clarify that the recited shoulder surface and lateral porous layer are located inwardly from both the stud outer end and the longitudinal porous layer.

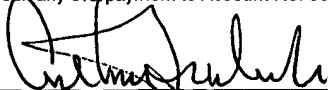
It is accordingly urged that claims 1-9 and 13-21 patentably distinguish the invention over the art of record and are now in condition for allowance.

Respectfully submitted,

ARTHUR FREILICH  
Reg. No. 19, 281  
Attorney for Applicant(s)  
FREILICH, HORNBAKER & ROSEN  
9045 Corbin Avenue Suite 260  
Northridge, CA 91324-3343  
TEL. 818-678-6408 • FAX 818-678-6411

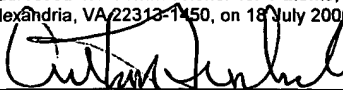
**DEPOSIT ACCOUNT AUTHORIZATION:**

Throughout the prosecution of this application the Patent and Trademark Office is authorized to charge any additional fees which may be required, or credit any overpayment to Account No. 501232.

  
ARTHUR FREILICH, Reg. No. 19,281

**CERTIFICATION OF MAILING:**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Mail Stop: Non Fee Amendment, Alexandria, VA 22312-1450, on 18 July 2006.

  
ARTHUR FREILICH